

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	Criminal No. 1:00-CR-00063-04
	:	
v.	:	(Judge Rambo)
	:	
DON JUAN HARRIS	:	(Electronically Filed)

EMERGENCY MOTION FOR RELIEF UNDER 18 U.S.C. § 3582(c)

AND NOW comes Don Juan Harris, by his attorney, Thomas A. Thornton, of the Federal Public Defenders Office, and files this Emergency Motion for Relief Under 18 U.S.C. § 3582(c). In support thereof, it is averred as follows:

1. On March 1, 2000, a two count Indictment was filed charging Don Harris with distribution and possession with the intent to distribute cocaine base a/k/a “crack” in violation of 21 U.S.C. § 841 (a) (1) and distribution of more than 50 grams of cocaine base.

2. Don Harris appeared before this Honorable Court on May 26, 2000 and entered a plea of guilty to Count One of the Indictment charging distribution and possession with the intent to distribute cocaine base.

3. The Court ordered the preparation of a presentence report.
4. The 2000 edition of the United States Sentencing Guidelines Manual was used to calculate Don Harris' sentencing guideline range.
5. The presentence report provides that Don Harris was accountable for at least 150 grams of cocaine base, but less than 500 grams.
6. The presentence report listed the base offense level as 34. The offense level was reduced by three levels for acceptance of responsibility. This resulted in a final offense level of 31.
7. Don Harris was assigned a criminal history category of III.
8. Don Harris' sentencing guideline range was 135 - 168 months.
9. On December 18, 2000, this Honorable Court sentenced Don Harris to a term of imprisonment of 70 months. This represented an approximate 48 percent

reduction from the bottom of the guideline range based on a substantial assistance motion from the Government.

10. Don Harris is currently serving this sentence at FCI Three Rivers in Three Rivers, Texas.

11. Don Harris' projected release date is March 30, 2009.

12. On November 1, 2007, the United States Sentencing Commission amended the Drug Quantity Table and reduced the offense level for an offense involving at least 150 grams but less than 500 grams of cocaine base by 2 levels to a level 32. (Amendment 706).

13. On December 12, 2007, the United States Sentencing Commission announced its decision to apply the amendments to the crack guidelines retroactively effective March 3, 2008 and listed Amendment 706 in the new U.S.S.G. § 1B1.10 (c).

14. Pursuant to 18 U.S.C. § 3582(c)(2), “in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission . . . upon motion of the defendant . . . the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, . . . .”

15. Under the retroactive application of the amendment to the sentencing guidelines, Don Harris’ base offense level is 32 and with a 3 level reduction for the acceptance of responsibility, the total offense level is 29.

16. An offense level of 29 and a criminal history category of III results in a now advisory guideline imprisonment range of 108 to 135 months.

17. A 48 percent departure from the new bottom of the guideline range results in a sentence of between 56 and 57 months.

18. Because Don Harris had been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing

Commission, he moves this Honorable Court to reduce the term of imprisonment in accordance with 18 U.S.C. § 3582(c)(2) to a time served sentence.

19. Counsel requests that the time served sentence be effective on March 3, 2008.

20. Defense counsel has communicated with Acting United States Attorney Martin C. Carlson who indicated that he would be filing a separate response .

WHEREFORE, it is respectfully requested that this Honorable Court grant the foregoing Motion for Relief Under 18 U.S.C. § 3582(c).

Respectfully submitted,

Date: February 20, 2008

*s/ Thomas A. Thornton*

THOMAS A. THORNTON, ESQUIRE

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**CERTIFICATE OF SERVICE**

I, Thomas A. Thornton, Federal Public Defender for the Middle District of Pennsylvania, do hereby certify that I served a copy of the foregoing **EMERGENCY MOTION FOR RELIEF UNDER 18 U.S.C. § 3582(c)(2)**, via Electronic Case Filing, or by placing a copy in the United States mail, first class in Harrisburg, Pennsylvania, addressed to the following:

Martin C. Carlson, Esquire

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Eric Pfisterer, Esquire

[REDACTED]  
[REDACTED]  
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[REDACTED]

Drew Thompson

[REDACTED]  
[REDACTED]  
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Don Juan Harris

[REDACTED]  
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Date: February 20, 2008

s/ Thomas A. Thornton

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